

JOINT DECLARATION FOR REISSUE PATENT APPLICATION

#4

As the below named inventor, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names;

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled APC ANTIBODIES

the specification of which

is attached hereto.
 was filed on May 25, 1995 as Application Serial Number 08/452,654 and was amended on _____ (if applicable).

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56(a).

Prior Foreign Application(s)

We hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Country	Application Number	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed Under 35 U.S.C. §119
United Kingdom	9100962.1	16/01/91		YES
United Kingdom	9100963.9	16/01/91		YES
United Kingdom	9100974.6	16/01/91		YES
United Kingdom	9100975.3	16/01/91		YES

Prior United States Application(s)

We hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial Number	Date of Filing (Day, Month, Year)	Status -- Patented, Pending, Abandoned

Prior United States Provisional Application(s)

We hereby claim priority benefits under Title 35, United States Code, §119(e) of any provisional application for patent listed below and have also identified below any provisional application for patent having a filing date before that of the application on which priority is claimed:

Provisional Application Number	Date of Filing (day, month, year)	Priority Claimed Under 35 U.S.C. §119(e)

5,691,454, is wholly or partially inoperative or invalid because of the following defects in the specification:

- the amino acid sequence provided for the APC protein in SEQ ID NO:7 of the sequence listing contains a minor error; and
- the specification refers to overlapping APC cDNA clones as "defining an ORF of 2842 amino acids" (column 4, line 31) and as coding "for a 2842 or 2844 amino acid peptide" (column 31, lines 32-33), rather than the correct number of 2843 amino acids.

(2) The correction of SEQ ID NO:7 is supported by the specification. The missing proline at position 173 in SEQ ID NO:7 is supported in the specification by the proline which is present at position 173 in SEQ ID NOS:1 and 2 and in Figure 3. In addition, routine analysis of YAC 37HG4 deposited as NCIMB 40353, referred to at column 12, lines 35-39 of U.S. Patent 5,691,454 establishes that there is, indeed, a proline at codon 173. The deposit was made under the terms of the Budapest Treaty. (See declaration of Dr. Sarah Kagan, of record in Serial No. 08/452,654, filed February 14, 1996.) One of ordinary skill in the art would have recognized the omission of the proline in SEQ ID NO:7 as a minor error by noting the inconsistency between the amino acid sequences presented in Figure 3 and in SEQ ID NOS:1 and 2 with that in SEQ ID NO:7.

(3) The error at column 4, line 31, referring to "an ORF of 2842 amino acids," occurred because of the inadvertent omission of the proline at position 173 in originally filed Figure 3. The omission of this proline resulted in the APC protein being described in the specification as having 2842 rather than 2843 amino acids.

(4) The error at column 31, lines 32-33, referring to a "2842 or 2844 amino acid peptide," occurred as follows. The application which issued as U.S. Patent 5,691,454 originally contained eight figures. In Figure 7 as originally filed, three supernumerary nucleotides were added at nucleotide positions 3972 (C), 3981 (G), and 3996 (A). As a result, the predicted amino acid sequence was erroneously stated to be "Ser Ser Val His Ser Thr Leu Glu" rather than "Ala Val Ser Gln His Pro Arg" at positions 1325 to 1331. This error resulted in an apparent sequence for the APC protein of 2844 amino acids. In combination with the omission of the proline at position 173 in originally filed Figure 3, this error resulted in the APC protein being described in the specification as a "2842 or 2844 amino acid peptide." Originally filed Figure 7 was canceled during prosecution of Serial No. 08/452,654, which issued as U.S. Patent 5,691,545.

(5) Correction of the number of amino acids in the APC protein does not add new matter to the specification. It merely renders consistent the number of amino acids shown in SEQ ID NOS:1 and 2 and the number of amino acids referred to in the specification.

(6) All errors which are being corrected in the present reissue application up to the time of filing of this declaration arose without any deceptive intent on the part of the applicants.

(7) We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application

And we hereby appoint, both jointly and severally, as our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the following attorneys who are all members of the Bar of the District of Columbia, their registration numbers being listed after their names:

Donald W. Banner, Registration No. 17,037; Edward F. McKie, Jr., Registration No. 17,335; William W. Beckett, Registration No. 18,262; Dale H. Hoscheit, Registration No. 19,090; Joseph M. Potenza, Registration No. 28,175; James A. Niegowski, Registration No. 28,331; Joseph M. Skerpon, Registration No. 29,864; Thomas L. Peterson, Registration No. 30,969; Nina L. Medlock, Registration No. 29,673; William J. Fisher, Registration No. 32,133; Thomas H. Jackson, Registration No. 29,808; Patricia E. Hong, Registration No. 34,373; Robert S. Katz, Registration No. 36,402, Brian E. Hanlon, Registration No. 40,449, Sarah A. Kagan, Registration No. 32,141 and Lisa M. Hemmendinger, Registration No. 42,653.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Letters Patent of)
ALBERTSEN *et al.*) ATTN: Applications Branch
U.S. Letters Patent No. 5,691,454) Previous Examiner: N. Johnson
(Serial No. 08/452,654))
Issued: November 25, 1997)
(Filed: May 25, 1995)) Atty. Dkt. No. 01107.78817

For: **APC ANTIBODIES**

ASSENT OF ASSIGNEES TO THE REISSUE APPLICATION

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

The undersigned, ZENECA, LTD.; THE CANCER INSTITUTE, JAPANESE FOUNDATION FOR CANCER RESEARCH; THE JOHNS HOPKINS UNIVERSITY; and THE UNIVERSITY OF UTAH, being assignees of record of total interest in the above-identified application as shown by the Assignment of parent application Serial No. 07/741,940 recorded at Reel 6028 , Frames 0653, 0655, 0658, and 0661, and at Reel 6965, Frame 0039, hereby consent to the filing for the Reissue Application filed concomitantly herewith. Each of the undersigned has authority to act on behalf of the designated assignees.

ZENECA, LTD.

Date

THE CANCER INSTITUTE, JAPANESE FOUNDATION
FOR CANCER RESEARCH

Date

THE JOHNS HOPKINS UNIVERSITY

Date

THE UNIVERSITY OF UTAH

Date